STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:	*	**Settlement Tracking No.**
	*	**SA-AE-11-0045**
CF INDUSTRIES, INC.	*	
	*	**Enforcement Tracking No.**
AI # 2416	*	**AE-CN-08-0144**
	*	
PROCEEDINGS UNDER THE LOUISIANA	*	
ENVIRONMENTAL QUALITY ACT	*	
LA. R.S. 30:2001, ET SEQ.	*	

SETTLEMENT

The following Settlement is hereby agreed to between CF Industries, Inc. ("Respondent") and the Department of Environmental Quality ("DEQ" or "the Department"), under authority granted by the Louisiana Environmental Quality Act, La. R.S. 30:2001, et seq. ("the Act").

I

Respondent is a corporation that owns and/or operates a nitrogen production complex facility located in Donaldsonville, Ascension Parish, Louisiana ("the Facility").

II

On April 17, 2009, the Department issued to Respondent a Consolidated Compliance Order & Notice of Potential Penalty, Enforcement No. AE-CN-08-0144, which was based upon the following findings of fact:

The Respondent owns and/or operates the Donaldsonville Nitrogen Complex which is located at 39018 Louisiana Highway 3089 in Donaldsonville, Ascension Parish, Louisiana. The facility produces the nitrogen based compounds of ammonia, granular urea, and urea ammonium nitrate. Production starts with the manufacture of ammonia. Ammonia is used to produce urea,

nitric acid, and ammonium nitrate (AN). Urea solution and ammonium nitrate are mixed to form urea ammonium nitrate (UAN) solution. All units at the facility operated under consolidated Title V Permit No. 0180-00004-V0 issued March 3, 2000, and Administratively Amended July 19, 2002; Title V Permit No. 0180-00004-V1 issued October 18, 2004; and Title V Permit No. 0180-00004-V2 issued June 13, 2007 AND Title V Permit No. 0180-00004V3 issued on December 19, 2007. The facility also operated under PSD Permit No. PSD-LA-594 issued April 29, 1996, and Administratively Amended January 21, 2009. The facility currently operates under Title V Permit No. 0180-00004-V4 issued March 3, 2009, and PSD Permit No. PSD-LA-LA-744 issued on March 3, 2009. The facility received final approval of its Air Toxics Certification of Compliance on May 17, 1994. The facility also has an approved NOx Averaging Plan approved April 18, 2005.

On or about July 30, 2008, a file review was performed to determine the degree of compliance with the Act and the Air Quality Regulations.

The following violations were noted during the course of the review:

A. On December 12, 2005, the Department received a letter and report from the Respondent. The report documented the results of stack testing on Urea Boiler 2A (EQT 25). The stack testing was done on October 5, 2005, by Emissions Testing Service (ETS) of Baton Rouge, Louisiana who had been contracted by the Respondent to perform the tests. Test results showed NO_X emission rates of 0.15041 lb/MMBtu, 0.14831 lb/MMBtu, and 0.15036 lb/MMBtu with an average of 0.14969 lb/MMBtu. These NO_X emissions rates, including the average, exceed the emission limit of 0.123 lb/MMBtu as approved in its NOx Averaging Plan. Furthermore, the Respondent failed to demonstrate initial and continuous compliance with their approved NOx Averaging Plan. This is a violation of Title V Permit No. 0180-00004-V1, LAC 33:III.501.C.4, LAC 33:III.2201.H, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).

B. Based on the Respondent's discovery of the formaldehyde emissions from equipment leak fugitive sources during its review for 40 CFR 63 Subpart FFFF applicability, it was revealed that the Air Toxics Certification of Compliance did not include formaldehyde emissions from equipment leak fugitive sources in the Urea 1 and 2 Plants. The Department's records do not

indicate any such formaldehyde emissions until the submittal of the Title V permit modification application in May 2008. This is a violation of LAC 33:III.5109.B. The Respondent had not provided data to indicate that Maximum Achievable Control Technology (MACT) is being used to effectively control Class I and Class II toxic air pollutants. This is a violation of LAC 33:III.5109.A.1. These are also violations of La. R.S. 30:2057(A)(1) and La. R.S. 30:2057(A)(2), and La. R.S.30:2060.L.

C, The Respondent's facility became subject to 40 CFR 63 Subpart FFFF in 2008. In preparation for this applicability date, the facility performed a detailed count of components subject to the equipment leak fugitive emission requirements. The fugitive component count was higher than previously thought and therefore emissions of formaldehyde are higher than Title V Permit No. 0180-00004-V3 which allowed 0.046 tpy. In May 2008, the Respondent submitted a Title V minor modification permit application for Urea Plants 1, 2, and 4 to increase the fugitive emissions of formaldehyde by 1.175 tpy which is above the Minimum Emission Rate (MER) of a Class 1 Toxic Air Pollutant (TAP). The failure to accurately quantify and include all emissions in its air permit is a violation of Title V Permit Number 0180-00004-V3, LAC 33:III.501.C.2, La. R.S. 30:2057(A)(1), and La. R.S. 30:2057(A)(2).Title V Permit permitted emission limit of formaldehyde to 1.185 tpy.

III

Respondent denies it committed any violations or that it is liable for any fines, forfeitures and/or penalties.

IV

Nonetheless, Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a payment in the amount of TWENTY-ONE THOUSAND AND NO/100 DOLLARS ($21,000.00), of which Nine Hundred Seventy-Seven and 29/100 Dollars ($977.29) represents the Department's enforcement costs, in settlement of the claims set forth in this agreement. The total amount of money expended by Respondent on cash payments to the Department as described above, shall be considered a civil penalty for tax purposes, as required by La. R.S. 30:2050.7(E)(1).

V

Respondent further agrees that the Department may consider the permit record(s), the Consolidated Compliance Order & Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history. Nonetheless, Respondent may urge any mitigating factors it believes applicable in any such future proceeding.

VI

This agreement shall be considered a final order of the Secretary for all purposes, including, but not limited to, enforcement under La. R.S. 30:2025(G)(2), and Respondent hereby waives any right to administrative or judicial review of the terms of this agreement, except such review as may be required for interpretation of this agreement in any action by the Department to enforce this agreement.

VII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in La. R. S. 30:2025(E) of the Act.

VIII

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Ascension Parish, Louisiana. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for

public view and comment and the opportunity for a public hearing. Respondent has submitted an original proof-of-publication affidavit and an original public notice to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

IX

Payment is to be made within thirty (30) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Payments are to be made by check, payable to the Department of Environmental Quality, and mailed or delivered to the attention of Accountant Administrator, Financial Services Division, Department of Environmental Quality, Post Office Box 4303, Baton Rouge, Louisiana, 70821-4303. Each payment shall be accompanied by a completed Settlement Payment Form (Exhibit A).

X

In consideration of the above, any claims for penalties relating to or arising from the findings of fact in Consolidated Compliance Order & Notice of Potential Penalty No. AE-CN-08-0144 dated April 17, 2009 are hereby compromised and settled in accordance with the terms of this Settlement.

XI

Each undersigned representative of the parties certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of his or her respective party, and to legally bind such party to its terms and conditions.

CF INDUSTRIES, INC.

BY: _____
(Signature)

_____
(Printed)

TITLE: _____

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20 _____, at _____.

_____
NOTARY PUBLIC (ID #_____)

_____
(stamped or printed)

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY
Peggy M. Hatch Secretary

BY: _____
Cheryl Sonnier Nolan, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED in duplicate original before me this _____ day of _____, 20_____, at Baton Rouge, Louisiana.

_____
NOTARY PUBLIC (ID # _____)

_____
(stamped or printed)

Approved: _____
Cheryl Sonnier Nolan, Assistant Secretary